IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.160 OF 2006

Sunil Sadanand Salvi and anr. Petitioners

versus

The Municipal Corporation of
Greater Mumbai and others Respondents

Shri Rajiv Narula with Bhupendra Singh i/by K.R.Dhanuka for petitioners.

Ms.Aruna Sawla for respondents 1 and 2.

Shri A.Rajadhyaksha i/by A.M.K.Legal for respondents 3, 4 and 5.

CORAM : KSHITIJ R. VYAS, C.J. &
S.C.DHARMADHIKARI, J.

DATE : 2nd March 2006

PC :

1. Heard learned counsel appearing for parties.

2. This petition under Article 226 of the Constitution of India prays for quashing and setting aside of the orders dated 25th November 2005, 16th August 2004 as well as 5th August 2005 with a further direction to the respondents 1 and 2 to demolish the transit accommodation

constructed by respondent no.5 for members of respondent no.3 only.

3. With the assistance of learned counsel appearing for parties we have perused the orders under challenge. The Municipal Corporation is owner of the properties which are Chawl type structures namely "Koli Chawl" and "Parsi Chawl". Initially, the Corporation contemplated joint development of these properties and processed the proposals on that basis. The proposals of the tenants/occupants of both Chawls, for joint development, were later split up and Parsi Chawl occupants were allowed to independently develop their portion. The occupants of Koli Chawl being aggrieved by such splitting, have challenged the decision of Corporation in that behalf.

4. On an earlier occasion, at the instance of petitioner herein, this Court directed the Joint Municipal Commissioner to hear both sides and pass a reasoned order with regard to the proposals for development. Our attention is invited to the order dated 23rd September 2005 in Writ Petition No.2250 of 2005.

5. The Joint Municipal Commissioner has now

passed a reasoned order and has relied upon several aspects including inspection of the properties by the Municipal Engineers. On that basis he has held that it is feasible to develop the properties in question independently. While protecting the interest of petitioners to come forward with a revised proposal for development of Koli Chawl, the Joint Municipal Commissioner has directed that Parsi Chawl occupants can go ahead with their independent proposal.

6. From a perusal of the relevant materials and the affidavit of the Municipal Corporation, we find no reason to interfere with the decision of Municipal Corporation, based as it is, on the assessment of the Municipal Engineers, Director of Engineering and Projects as well as Assistant Municipal Commissioner. Such decisions by Public Bodies, who are owners of properties, for development thereof with a view to eliminate miseries of the tenants occupying dilapidated tenaments, require no interference in writ jurisdiction. Moreso, when they are not demonstrated to be perverse or vitiated by any error apparent and cannot be termed as malafide as well. Petition is, therefore, dismissed.

7. The Joint Municipal Commissioner has, in his order, specifically observed that even at this stage it is open for the petitioner to come forward with an independent proposal for development of Koli Chawl and such revised and independent proposal would be considered and processed by the Corporation in accordance with the applicable policies and rules.

8. Shri Narula upon taking instructions from the petitioner who is present in the Court, makes a statement that the petitioner would come forward with a revised and/or independent proposal for development of Koli Chawl and we have no doubt that such proposal will be considered by the Municipal Corporation by taking into account the fact that even Koli Chawl occupants require rehabilitation. The feasibility of the proposal should be considered in the light of the fact that part of the property is to be utilised for construction of a Secondary School. The Corporation shall process the proposal and while ensuring construction of the School, shall also ensure that the petitioner can develop their portion with all benefits and concessions as are made available to the Parsi Chawl.

(CHIEF JUSTICE)

(S.C.DHARMADHIKARI, J.)